

Notice of Allowability

Application No.

10/006,957

Examiner

Traviss C. McIntosh

Applicant(s)

PAGLIN ET AL.

Art Unit

1623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to amendment after final filed 3/30/05.
2. ☒ The allowed claim(s) is/are 1,3,9-11,13,15,20,21 and 53-65.
3. ☒ The drawings filed on 04 December 2001 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material

5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

JAMES O. WILSON
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Amy Leahy on April 14, 2005.

The application has been amended as follows:

In claim 1, in the 4th line, after the phrase "to the chemotherapeutic agent" the phrase "in an amount effective" has been added.

In claim 3, in the 3rd line, after the phrase "of vacuolar proton ATPase activity," the phrase "in an amount effective to prevent the formation of acidic vesicular organelles in said cell," has been added.

In claim 11, in the 2nd line, the phrase "is a oximidine" has been deleted and replaced with the following phrase "is an oximidine".

In claim 13, in the 4th line, after the phrase "to the chemotherapeutic agent" the phrase "in an amount effective" has been added.

In claim 15, in the 3rd line, after the phrase "of acidic vesicular function or acidification," the phrase "in an amount effective to inhibit acidic vesicular function or acidification in said cell," has been added.

Art Unit: 1623

In claim 58, in the 2nd line, the phrase “is a oximidine” has been deleted and replaced with the following phrase “is an oximidine”.

In claim 59, in the 2nd line, the phrase “is a oximidine” has been deleted and replaced with the following phrase “is an oximidine”.

In claim 65, in the 2nd line, the phrase “is a oximidine” has been deleted and replaced with the following phrase “is an oximidine”.

The following is an examiner’s statement of reasons for allowance: the prior art does not teach or fairly suggest the use of a plecomacrolide or benzolaetone in inhibiting AVO formation in cells which have previously been exposed to irradiation, nor does the prior art teach or fairly suggest the use of a benzolaetone enamide in inhibiting AVO formation in cells which have been previously exposed to chemotherapeutic agents.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled “Comments on Statement of Reasons for Allowance.”

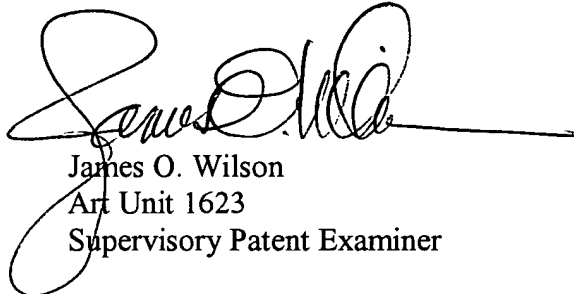
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Traviss C. McIntosh whose telephone number is 571-272-0657. The examiner can normally be reached on M-F 9:30-6:00.

Art Unit: 1623

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James O. Wilson can be reached on 571-272-0661. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Traviss C. McIntosh III
April 14, 2005



James O. Wilson
Art Unit 1623
Supervisory Patent Examiner